

2013 DRAFTING REQUEST

Bill

Received:	1/7/2014	Received By:	chanaman
Wanted:	As time permits	Same as LRB:	
For:	Evan Goyke (608) 266-0645	By/Representing:	Ryan Knocke
May Contact:		Drafter:	chanaman
Subject:	Correctional System - misc Criminal Law - sentencing	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
 Requester's email: **Rep.Goyke@legis.wisconsin.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Court may grant expungement at any time-- not just at sentencing

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 1/7/2014	eweiss 1/17/2014					
/1			rschluet 1/21/2014		sbasford 1/21/2014	mbarman 2/12/2014	State S&L

FE Sent For:

<END>

At
Intro.

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/?	chanaman						
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FE Sent For:

1 emwd
cjs
1/17
14
emw
<END>

Hanaman, Cathlene

From: Knocke, Ryan
Sent: Monday, January 06, 2014 2:15 PM
To: Hanaman, Cathlene
Subject: Rep. Goyke Bill Draft Request

Cathlene-

I hope you had a good Holiday and Happy New Year to you! You had previously drafted for us a while ago a bill regarding expungement. Following Rep. Goyke's vetting of that draft and working with stakeholders, he would like to draft a new bill based on the feedback he has received. This would be a new bill and we are archiving for now the other one.

I received the request below from him. Could this be forwarded to get a draft started? Thank you for all of your help and expertise!

- Ryan

Ryan, - Please send the following to LRB:

Expungment Bill Draft.

The bill amends 973.015 to remove the limitation that the decision to grant expungment be only made at the time of sentencing. The bill would allow the defendant to apply for expungment following the completion of his or her sentence and would allow the court to decide the defendant's motion for expungment regardless of whether any expungment decision was made at the sentencing hearing.

No change to any other aspect of the expungment statute.

Ryan Knocke
Legislative Aide
Office of State Representative Evan Goyke
Telephone: (608) 266-0645



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3913/

CMH:.....

emw & cjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SAW
x-ref

1 **AN ACT** ...; *Gen. Cat.* **relating to:** expunging a court record of an offense committed before

2 the offender reaches the age of 25.

Analysis by the Legislative Reference Bureau

Under current law, if a person commits a crime for which the maximum term of imprisonment is six years or less before he or she reaches the age of 25, a court may at the time of sentencing order that the court's record of the crime and conviction be expunged when the person successfully completes his or her sentence if the court finds that expunging the record will benefit the person and will not harm society. This bill allows the court to order at any time such a record expunged after the person completes his or her sentence instead of just at sentencing.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 301.45 (1p) (a) of the statutes is amended to read:

4 301.45 (1p) (a) If a person is covered under sub. (1g) based solely on an order

5 that was entered under s. 938.34 (15m) (am) or 973.048 (1m) in connection with a

6 delinquency adjudication or a conviction for a violation of s. 942.08 (2) (b), (c), or (d),

1 the person is not required to comply with the reporting requirements under this
2 section if the delinquency adjudication is expunged under s. 938.355 (4m) (b) or if the
3 conviction is expunged under s. 973.015 (2).

History: 1993 a. 98, 227; 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283; 1999 a. 9, 89, 156, 186; 2001 a. 38, 96, 109; 2003 a. 50, 53; 2005 a. 25, 253, 277, 344, 432, 434; 2007 a. 20 ss. 3130 to 3132, 9121 (6) (a); 2007 a. 80, 96, 116; 2009 a. 131, 137, 180, 302.

4 **SECTION 2.** 301.45 (7) (e) 2. of the statutes is amended to read:

5 301.45 (7) (e) 2. The department issues a certificate of discharge under s.
6 973.015 (2) (3).

History: 1993 a. 98, 227; 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283; 1999 a. 9, 89, 156, 186; 2001 a. 38, 96, 109; 2003 a. 50, 53; 2005 a. 25, 253, 277, 344, 432, 434; 2007 a. 20 ss. 3130 to 3132, 9121 (6) (a); 2007 a. 80, 96, 116; 2009 a. 131, 137, 180, 302.

7 **SECTION 3.** 301.45 (7) (e) 3. of the statutes is amended to read:

8 301.45 (7) (e) 3. The department receives a certificate of discharge issued under
9 s. 973.015 (2) (3) by the detaining authority.

History: 1993 a. 98, 227; 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283; 1999 a. 9, 89, 156, 186; 2001 a. 38, 96, 109; 2003 a. 50, 53; 2005 a. 25, 253, 277, 344, 432, 434; 2007 a. 20 ss. 3130 to 3132, 9121 (6) (a); 2007 a. 80, 96, 116; 2009 a. 131, 137, 180, 302.

10 **SECTION 4.** 973.015 (1) (a) of the statutes is renumbered 973.015 (1) (a) (intro.)

11 and amended to read:

12 973.015 (1) (a) (intro.) Subject to par. (b) and except as provided in ^{par. 5.} par. (c), ~~when~~
13 ^{and (d)} if a person is convicted of an offense for which the maximum period of imprisonment
14 is 6 years or less and the person committed the offense when he or she was under the
15 age of 25 at the time of the commission of an offense for which the person has been
16 found guilty in a court for violation of a law for which the maximum period of
17 imprisonment is 6 years or less, the court may, if the court determines the person will
18 benefit and society will not be harmed, order at the time of sentencing that the record
19 be expunged upon successful completion of the sentence if the court determines the
20 person will benefit and society will not be harmed by this disposition. as follows:

(d) This subsection does not apply to information maintained by the department of transportation regarding a conviction that is required to be included in a record kept under s. 343.23 (2) (a).

History: 1975 c. 39; 1975 c. 189 s. 105; 1975 c. 199; 1983 a. 519; 1991 a. 189; 2003 a. 33, 50, 320; 2009 a. 28; 2011 a. 268.

SECTION 5. 973.015 (1) (a) 1. and 2. of the statutes are created to read:

973.015 (1) (a) 1. If the person is being sentenced or the person has otherwise not successfully completed the sentence, upon the receipt of the certificate of discharge forwarded to the court under sub. (3).

2. If the person has successfully completed the sentence, when the person petitions the sentencing court to expunge the court record of his or her offense.

SECTION 6. 973.015 (2) of the statutes is amended to read:

973.015 (2) ~~A For purposes of this section, a person has successfully completed~~
~~completes~~ the sentence if the person ~~has~~ ^{plain} ~~is not been~~ convicted of a subsequent offense
and, if the person ~~is~~ ^{was} placed on probation, the ~~he or she~~ ^{has} satisfies the conditions of
probation and the probation ~~has~~ ^{plain} ~~is not been~~ revoked and the probationer has
satisfied the conditions of probation. Upon successful completion of

(3) ~~(When a person successfully completes)~~ the sentence, the detaining or probationary authority shall issue a certificate of discharge which shall be forwarded to the court of record and which shall have the effect of expunging the record. If the person has been imprisoned, the detaining authority shall also forward a copy of the certificate of discharge to the department.

History: 1975 c. 39; 1975 c. 189 s. 105; 1975 c. 199; 1983 a. 519; 1991 a. 189; 2003 a. 33, 50, 320; 2009 a. 28; 2011 a. 268.

(END)

At the conclusion of
a person's sentence or term of probation,
if the person has successfully completed

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

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CMH:.....

gjs & emw

INS A

SECTION 1. 973.015 (1) (a) of the statutes is renumbered 973.015 (1) (a) (intro.) and amended to read:

973.015 (1) (a) (intro.) Subject to par. (b) and except as provided in ~~par.~~ pars. (c), ~~when~~ and (d), if a person is convicted of an offense for which the maximum period of imprisonment is 6 years or less and the person committed the offense when he or she was under the age of 25 at the time of the commission of an offense for which the person has been found guilty in a court for violation of a law for which the maximum period of imprisonment is 6 years or less, the sentencing court may order at the time of sentencing that the record be expunged upon successful completion of the sentence if the court determines the person will benefit and society will not be harmed by this disposition., if it determines the person will benefit and society will not be harmed, do any of the following:

(d) This subsection does not apply to information maintained by the department of transportation regarding a conviction that is required to be included in a record kept under s. 343.23 (2) (a).

History: 1975 c. 39; 1975 c. 189 s. 105; 1975 c. 199; 1983 a. 519; 1991 a. 189; 2003 a. 33, 50, 320; 2009 a. 28; 2011 a. 268.

SECTION 2. 973.015 (1) (a) 1. and 2. of the statutes are created to read:

973.015 (1) (a) 1. If the court determines that the person has not successfully completed the sentence, order at the time of sentencing or upon petition that the record be expunged of the offense at the time the court receives the certificate of discharge forwarded under sub. (3).

2. If the court determines that the person has successfully completed the sentence, order upon receiving a petition that the record be immediately expunged.

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

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INS B

INS B

SECTION 1. 973.015 (1) (a) 1. to 3. of the statutes are created to read:

973.015 (1) (a) 1. At the time of sentencing, order that the record be expunged of the offense at the time the court receives the certificate of discharge forwarded under sub. (3).

2. Upon petition, if the court determines that the person has not successfully completed the sentence, order that the record be expunged of the offense at the time the court receives the certificate of discharge forwarded under sub. (3).

3. Upon petition, if the court determines that the person has successfully completed the sentence, order that the record be immediately expunged.

of
the
offense

Rose, Stefanie

From: Knocke, Ryan
Sent: Wednesday, February 12, 2014 9:24 AM
To: LRB.Legal
Subject: Draft Review: LRB -3913/1 Topic: Court may grant expungement at any time-- not just at sentencing

Please Jacket LRB -3913/1 for the ASSEMBLY.